

REMARKS

Claims 57; 65; 69; 70; and 71 have been amended. Claims 1 to 56; 58 to 64; 66 to 68; and 72 to 80 are canceled. New claims 81 to 84 have been added.

Claims 57; 65; 69; 70; 71; and 81 to 84 remain in the application. Of these, claims 57 and 81 are the independent claims.

The amendment of the claims are believed to overcome or render moot all informal objections and all rejections under 35 U.S.C. § 112.

Claim 57 stands rejected under 35 U.S.C. §102(b) based upon Strasser et al. 4,838,282 (Strasser) or Scarfone et al (US 5,385,151) (Scarfone). Claim 65 also stands rejected under 35 U.S.C. §102(b) based upon Strasser. Claims 69; 70; and 71 stand rejected under 35 U.S.C. §102(b) based upon Jamshidi (US 5,807,275) (Jamshidi) or Byrne et al (US 5,538,009) (Byrne) or Tretinyak (US 4,630,616) (Tretinyak).

Independent claim 57 has been amended and new claim 81 has been added to define a tool system comprising first functional instrument (which includes a trocar instrument in claim 57) and a second functional instrument (which includes a cannula instrument in claim 57) that fit together to form a composite instrument. When the composite instrument is formed, a finger gripping surface on the handle of the second functional instrument nests within a recess that forms an interruption of a finger gripping surface on the handle of the first functional instrument. The nesting finger gripping surface of the second functional instrument fills the interruption of the finger gripping surface of the first functional instrument, to form a continuous composite finger gripping surface for the composite instrument. The composite finger gripping surface comprises the finger gripping surface of the first functional instrument resting in an adjacent and generally coplanar relationship with the finger gripping surface of the second functional instrument.

None of the cited documents teaches or suggests the subject matter defined in amended claim 57 or new claim 81. Strasser, or Scarfone, or Jamshidi, or Byrne, or Tretinyak do not fill an interruption on a gripping surface of a first functional instrument with a finger gripping surface on a second functional instrument to form a composite instrument with composite finger gripping surface that comprises the finger gripping surface of the first instrument resting in an adjacent and generally coplanar relationship with the finger gripping surface of the second instrument. In Strasser, or Scarfone, or Jamshidi, or Byrne, or Tretinya, it is the finger gripping surface of the

second instrument, and the second instrument alone, that comprises the finger gripping surface for the composite instrument. In Strasser, or Scarfone, or Jamshidi, or Byrne, or Tretinya, the finger gripping surface of the first instruments does not contribute to the formation of a composite finger gripping surface for the composite instrument. The handle of the first instrument merely rests on top of the finger gripping surface of the second instrument, forming no part of the finger gripping surface of the composite instrument.

Applicant acknowledges the rejection of originally submitted claims 57 to 66 under the judicially created doctrine of obviousness-type double patenting, based upon US 6,575,919. Applicant will respond to an appropriate double patenting rejection by filing a terminal disclaimer at the time allowance of the amended claims is indicated, but for the double patenting rejection.

Allowance of claims 57; 65; 69; 70; 71; and 81 to 84 is respectfully requested.

Respectfully Submitted,

By \_\_\_\_\_

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